IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 6TH SEPTEMBER 2007 / 15TH BHADRA 1929

WP(C).No. 14400 of 2007(L)

PETITIONER:

P.KUMARAN, PARAKKOTTIL HOUSE,
KOTTAPURAM,SREEKRISHNAPURAM P.O.,
PALAKKAD DISTRICT.

BY ADV. SRI.G.HARIHARAN
SRI.PRAVEEN.H.

RESPONDENTS:
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1. TAHSILDAR,PALAKKAD.

2. DEPUTY TAHSILDAR (RR),
OTTAPALAM,PALAKKAD DISTRICT.

3. VILLAGE OFFICER, KARIMPUZHA I VILLAGE,
PALAKKAD DISTRICT.

4. V.M.RADHAKRISHNAN, M/S.SURYA TOWERS,
G.B.ROAD,PALAKKAD.

R1 TO R3 BY GOVERNMENT PLEADER SRI. P.N. SANTHOSH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE ORDER MADE IN CP 40/95 CONNECTED WITH C.A. 175/95 IN COP 15/91 VIDE ORDER DATED 11.4.96

EXT.P2 TRUE COPY OF THE ORDER PASSED BY THE FIRST RESPONDENT AGAINST 4TH RESPONDENT ON 29.11.2005

EXT.P3 TRUE COPY OF THE RECEIPT EVIDENCED IN PAYMENT OF THE THIRD INSTALMENT ON 29.11.2005 BY THE 4TH RESPONDENT.

EXT.P4 STRUE COPY OF THE DEMAND NOTICE NO. 24/07/MISC DATED 21.4.2007 UNDER SECTION 7 OF THE RR ACT.

EXT.P5 STRUE COPY OF THE DEMAND NOTICE ISSUED UNDER SECTION 34 OF THE RR ACT ON 21.4.2007 AGAINST THE PETITIONER.

EXT.P6 TRUE COPY OF THE RECEIPT NO. 6039999 DATED 15.6.2007 ISSUED BY THE VILLAGE OFFICER, KARIMPA VILLAGE.

RESPONDENTS' EXHIBITS: NIL.

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 14400 OF 2007

Dated this the 6th day of September, 2007

JUDGMENT

Petitioner is challenging recovery proceedings for recovery of building tax assessed in respect of a building, which is stated to be presently owned by fourth respondent. The assessment order produced by the petitioner is in the name of the fourth respondent. However, it is seen that one demand notice, Ext.P4 is issued in the name of the petitioner. Tahsildar has filed a counter affidavit stating that building is taken over by the petitioner with liability. I do not think the dispute between the petitioner and fourth respondent need be settled by this Court because Section 19(2) of the Building Tax Act creates a charge on the property for the tax payable. It is not known what arrangement was made for payment of building when the property was transferred to the fourth respondent. Leaving open the fourth respondent's right to recover the amount from the petitioner, depending on terms of transfer of the building, respondents 1 to 3 are directed to sell the building, if assessed, and recover the arrears under Section 19(2), if tax is not paid by the owner.

W.P. is disposed of as above.

(C.N.RAMACHANDRAN NAIR)
Judge